

REMARKS

Applicants have reviewed this application in light of the Final Office Action mailed May 27, 2009. Claims 1, 5-13, 16-20, 22 and 23 are pending in this Application. Claims 1, 5-13, 16-20, 22 and 23 stand rejected under 35 U.S.C. § 103(a). Claims 2-4, 14-15, and 21 were previously cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and allowance of all pending claims.

Rejections under 35 U.S.C. § 103

Claims 1, 5-13, 16-20, 22 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,718,486 issued to Drew Shaffer Roselli et al. ("*Roselli*") in view of U.S. Patent Application Publication No. (2003/0158940 by Kevin B. Leigh ("*Leigh*"), and further in view of U.S. Patent Application Publication 2005/0155033 by Luoffo ("*Luoffo*").

While Applicants make no concessions regarding the relevance of the references cited by the Examiner to the Claims of the present application, Applicants assert that the rejection under 35 U.S.C. § 103(a) is improper, as *Luoffo* is not prior art, and thus cannot be used to sustain a finding of obviousness of Claims 1, 5-13, 16-20, 22 and 23.

According to 37 C.F.R. § 1.131, the effective date of a reference is the earlier of its publication date or its availability as a reference under 35 U.S.C. § 102(e). *Luoffo* was published on July 14, 2005 and filed on January 14, 2004. The earliest reference date for which *Luoffo* may be available, then, is its filing date, January 14, 2004. The current application was filed on December 11, 2003, thus predating the reference date of *Luoffo* by 34 days.

For at least these reasons, Applicants submit that *Luoffo* is not available as a basis for an obviousness rejection under 35 U.S.C. § 103(a). Applicants respectfully request that the Examiner reconsider the Application in light of these arguments, withdraw the rejections under 35 U.S.C. § 103(a) and fully allow Claims 1, 5-13, 16-20, 22 and 23, the rejections of which rely at least in part on *Luoffo*.

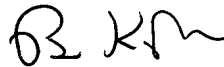
CONCLUSION

Applicants appreciate the Examiner's careful review of the application. Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. For the foregoing reasons, Applicants respectfully request reconsideration of the rejections and full allowance of pending claims as amended.

Applicants believe there are no fees due at this time; however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2684.

Respectfully submitted,
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